

SCHENCK, PRICE, SMITH & KING, LLP

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Attorneys for Plaintiff

Natural and Tasty, LLC

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

NATURAL AND TASTY, LLC

Plaintiff,

vs.

MOSHE PARNES

Defendant.

Case No. _____

VERIFIED COMPLAINT

Plaintiff Natural and Tasty, LLC, (“Natural and Tasty”), by and through its counsel, Schenck, Price, Smith & King, LLP, by way of Verified Complaint against Defendant Moshe Parnes (“Parnes”) alleges as follows:

NATURE OF THE ACTION

1. This is an action for federal false designation of origin, trademark and service mark dilution, and violation of the Anticybersquatting Consumer Protection Act, as well as state and common law trademark and service mark infringement arising out of Defendant’s trafficking in and use of “goldbaums.com” as a domain name and trademark.

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action pursuant to 15 U.S.C. § 1125 and 28 U.S.C. §§ 1331, 1332, 1338(b) and 1367(a).

3. This Court has personal jurisdiction over Defendant Moshe Parnes because (i) he is operating a web site that is accessible throughout the United States and in this judicial district by any person or entity that can access the Internet; (ii) he is intentionally soliciting customers in this jurisdiction; and (iii) a substantial part of his actions of trademark and service mark infringement, dilution, cybersquatting, trade name infringement and unfair competition are occurring within this jurisdiction.

4. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b) and (c) because a substantial part of Defendants' acts giving rise to the claims contained herein have occurred and are occurring in this district, and Defendants' actions relating to the goldbaums.com domain name and use of goldbaums.com are unlawful pursuant to 15 U.S.C. § 1125.

THE PARTIES

5. Natural and Tasty is organized under the laws of the State of Jersey with a principal place of business at 267 ½ Verona Avenue, Newark, New Jersey 07104.

6. Defendant Moshe Parnes resides at 1227 56th Street, Brooklyn, New York 11219.

7. Natural and Tasty is a food distributor specializing in the natural and organic Kosher food market.

8. Defendant Moshe Parnes started the business known as Goldbaums Natural Food Co. ("Goldbaums").

**NATURAL AND TASTY PURCHASED GOLDBAUMS
IN MARCH 2011**

9. In March 2011, Natural and Tasty and Goldbaums entered into an agreement by which Natural and Tasty purchased Goldbaums for approximately \$200,000. The transaction included Natural and Tasty's acquisition of all of Goldbaums' business properties including its intellectual properties and website.

10. Goldbaums manufactures various food products and sells the products using a Goldbaums' branded label. Goldbaums' food products are sold by Natural and Tasty to both local and national markets.

11. Natural and Tasty's purchase included Goldbaums' common law trademark rights in its name, Goldbaums.

12. In February, 2014, Natural and Tasty applied for registration of the Goldbaums mark with the United States Patent and Trademark Office.

13. Trademark Registration No. 4605512 was issued to Natural and Tasty on September 16, 2014, for foods and snacks, namely, pasta, ice cream cones,

crackers, quinoa-based snack foods, seasoning mixes for soups. A true and accurate copy of the goldbaums trademark identifying Natural and Tasty, LLC as the owner is annexed hereto as Exhibit 1.

14. Following Natural and Tasty's purchase of Goldbaums, Defendant Moshe Parnes served as Natural and Tasty's Director of Product Development between March 2011 and February 13, 2015.

15. In this role, Defendant Moshe Parnes controlled the various domains and websites relating to the business of Goldbaums including but not limited to www.goldbaums.com, including all password access to control, maintain and edit the websites. Defendant Moshe Parnes also controlled email communications directed to Goldbaums at various emails addresses utilizing the @goldbaum.com domain name and possibly other domain names owned by the business.

**PLAINTIFF'S LONG-STANDING RIGHTS
IN THE NATURAL AND TASTY MARK**

16. Natural and Tasty is a leader in the food distribution industry specializing in the Kosher food market. Natural and Tasty's business includes the distribution of Goldbaums food products which are sold to both local and national markets.

17. In the food distribution industry, Natural and Tasty and its Goldbaums brand have developed an industry-wide reputation for exceptional service and high

quality products. Natural and Tasty's reputation continues to grow as the business expands.

18. Following the purchase of Goldbaums in March 2011, Natural and Tasty received its first federal registration for the goldbaums mark, and marks incorporating goldbaums, in 2014. Natural and Tasty currently owns Federal Registration No. 4,605,512. See Exhibit 1.

19. Since at least March 2011, Natural and Tasty and its Goldbaums brand have used the goldbaums marks in association with the products the Company provides, including in electronic and written materials, and product materials. This extensive use has created a direct association in the minds of the relevant consuming public between the goldbaums mark and the products Natural and Tasty provides.

20. Natural and Tasty has expended substantial resources and dollars promoting the products and services available under the Goldbaums brand in the New Jersey/New York metropolitan area and throughout the United States, creating in the public's mind an exclusive association between the mark and the products provided by Natural and Tasty.

21. As a part of the promotion of Natural and Tasty's business and the Goldbaums brand in particular, Natural and Tasty maintained a website under the domain name goldbaums.com where it provided information about and promotes

all of its Goldbaums products. A true and accurate copy of the homepages of goldbaums.com is annexed hereto as Exhibit 2.

22. Natural and Tasty has registered and/or uses the domain names “goldbaums.com,” among others, in Uniform Resource Locators, or “URLs”, which serve as the addresses through which websites can be located on the internet, to direct its customers and prospective customers to its comprehensive Internet website. The goldbaums.com website provides information about Natural and Tasty’s Goldbaum branded products.

23. The goldbaums mark is famous, known by consumers and throughout Natural and Tasty’s business circles for clearly and unmistakably calling to mind Natural and Tasty as the source of a full range of the food distribution items in the Kosher food market including Goldbaums branded products.

DEFENDANT’S UNLAWFUL ACTIVITIES

24. On February 13, 2015, Defendant Moshe Parnes left the employ of Natural and Tasty by mutual consent.

25. Thereafter, Defendant Moshe Parnes unlawfully seized control of the website with the domain name www.goldbaums.com by changing passwords which controlled the website.

26. Defendant Moshe Parnes is also controlling and operating several email addresses with utilizing the @goldbaum.com domain name.

27. Defendant Moshe Parnes is using the email address of moe@goldbaums.com to send and intercept emails intended for Natural and Tasty. Upon information and belief, Defendant Moshe Parnes is also redirecting Natural and Tasty vendors to the wrong parties utilizing the moe@goldbaums.com email address.

28. By ceasing control of and using domain name goldbaum.com, Defendant is intentionally seeking to confuse, mislead, and misdirect consumers who are seeking on-line information about Natural and Tasty and its Goldbaums brand, the Goldbaums, or other Natural and Tasty and Goldbaums products and services.

29. Natural and Tasty is currently without any control over the nature and quality of www.goldbaums.com or email addresses utilizing the @goldbaum.com domain name. Accordingly, the valuable reputation of Natural and Tasty and its Goldbaums brand and mark has been, and is being, diminished and diluted by the Defendant.

30. On March 2, 2015, Natural and Tasty demanded that Defendant Moshe Parnes relinquish control of the www.goldbaums.com website. Defendant Moshe Parnes failed to respond to Natural and Tasty's demand.

31. On March 13, 2015, Natural and Tasty's counsel, Schenck, Price, Smith & King, LLP, sent Defendant Moshe Parnes a cease and desist letter

demanding the return and/or transfer of Natural and Tasty's property. Specifically, it was demanded that Defendant Moshe Parnes return and/or transfer the following:

- A. Domain name Goldbaums.com and any other domain names used by the Natural and Tasty in the Goldbaums food business under Parnes' control.
- B. Access codes for the registrar for the domain name Goldbaums.com and any other domain names used by the Natural and Tasty in the Goldbaums food business under Parnes' control that would allow Natural & Tasty to make changes to the domain name.

32. Defendant Moshe Parnes has failed to respond to the March 13, 2015 letter.

33. Natural and Tasty is not receiving emails sent to several email addresses utilizing the @goldbaum.com domain name.

34. Defendant's wrongful acts are willful, and have been done with the intent to harm Natural and Tasty and to confuse and mislead the public¹.

COUNT ONE
(False Designation of Origin)
(Lanham Act § 43(a), 15 U.S.C. § 1125(a))

35. Plaintiff incorporates the allegations above as though fully set forth in this paragraph.

36. Defendant Moshe Parnes has used and continues to use www.goldbaums.com as a trademark and domain name in interstate commerce.

¹ Plaintiff, Natural and Tasty, is prepared to resolve the issues with Defendant Moshe Parnes within the confines of a Rabbinical Court if the defendant agrees; however, injunctive relief is necessary to regain control of the company's domain rights.

Defendant's use of www.goldbaums.com constitutes a false designation of origin that is likely to cause confusion, to cause mistake and to deceive as to the affiliation, connection or association between the Defendant and Natural and Tasty's products and services.

37. Natural and Tasty has requested on several occasions that Defendant cease his unlawful acts and the Defendant has notice of Natural and Tasty's trademark and service mark rights, but Defendant continues to willfully use www.goldbaums.com as a domain name.

38. Defendant's conduct has damaged, and continues to damage, Natural and Tasty in an amount to be determined at trial and, unless restrained, will seriously impair further the value of Natural and Tasty's marks.

COUNT TWO
(Dilution)
(Lanham Act § 43(c), 15 U.S.C. § 1125(c))

39. Plaintiff incorporates the allegations above as though fully set forth in this paragraph.

40. Plaintiff's marks are famous and inherently distinctive. They have been used locally and nationwide for a lengthy period of time. The marks are widely recognized.

41. Defendant Moshe Parnes has used and continues to use www.goldbaums.com as a trademark and domain name in interstate commerce.

Defendant's activities are likely to injure Natural and Tasty's business reputation and/or dilute the distinctive quality of Natural and Tasty's famous trademarks and service marks, in violation of 15 U.S.C. section 1125(c).

42. Defendant's activities have been willful and intentional.

43. Defendant's conduct has damaged, and continues to damage, Natural and Tasty in an amount to be determined at trial and, unless restrained, will seriously impair further the value of Natural and Tasty's marks.

COUNT THREE
(Cybersquatting)
(Lanham Act § 43(d), 15 U.S.C. § 1125(d))

44. Plaintiff incorporates the allegations above as though fully set forth in this paragraph.

45. Defendant Moshe Parnes has acted and continues to act with bad faith intent to profit from his trafficking in and use of, the domain name of "www.goldbaums.com" which is intended only for Plaintiff's registered mark.

46. Defendant's conduct has damaged, and continues to damage, Natural and Tasty in an amount to be determined at trial and, unless restrained, will seriously impair further the value of Natural and Tasty's marks.

COUNT FOUR
(Common Law Trademark Infringement)

47. Plaintiff incorporates the allegations above as though fully set forth in this paragraph.

48. Defendant's activities constitute infringement of Natural and Tasty's rights in the trademarks and service marks that Natural and Tasty own and use and Defendant's activities are in violation of the common law of the State of New Jersey causing injury to Natural and Tasty and the public.

49. Natural and Tasty has requested that Defendant cease his acts of trademark and service mark infringement and Defendant has actual notice of Natural and Tasty's rights in the marks, but Defendant willfully refuses to cease his infringing acts.

50. Defendant's conduct has damaged, and continues to damage, Natural and Tasty in an amount to be determined at trial and, unless restrained, will seriously impair further the value of Natural and Tasty's marks.

COUNT FIVE
(Common Law Trade Name Infringement)

51. Plaintiff incorporates the allegations above as though fully set forth in this paragraph.

52. Defendant's activities constitute trade name infringement in violation of the common law of the State of New Jersey causing injury to Natural and Tasty and the public.

53. Defendant's conduct has damaged, and continues to damage, Natural and Tasty in an amount to be determined at trial and, unless restrained, will seriously impair further the value of Natural and Tasty's trade name.

PRAYER FOR RELIEF

WHEREFORE, Natural and Tasty requests judgment in its favor and against Defendant Moshe Parnes, as follows:

A. Preliminarily and permanently enjoining Defendant Moshe Parnes his partners, agents, employees, and all persons in active concert or participating with Defendant Moshe Parnes:

- i. from directly or indirectly using or registering the goldbaums trademark or any colorable imitation of this mark, or any other terms that infringe or dilute the goldbaums mark owned by Natural and Tasty in any manner;
- ii. from using GOLDBAUMS as a trade name or corporate name;
- iii. from using, offering to sell or otherwise trafficking in the www.goldbaums.com domain name and any other domain names relating to the Goldbaums business or the business of Natural and Tasty.
- iv. from using, offering to sell or otherwise trafficking in any email addresses utilizing the @goldbaum.com domain name or any other domain name owned or relating to the business of Natural and Tasty or Goldbaums.

B. Ordering Defendant Moshe Parnes to transfer or make available to Natural and Tasty all passwords, codes or such other information which will allow Natural and Tasty to regain full control of the domain name www.goldbaums.com, any other domain names owned by or relating to the Goldbaums business or the business of Natural and Tasty and any email addresses utilizing the @goldbaum.com domain name or such other domain names as may be owned by or related to the Goldbaums business and/or the business of Natural and Tasty.

C. Ordering Defendant Moshe Parnes to file with this Court and serve on Natural and Tasty within ten (10) days after issuance of any injunction, a report in writing, under oath, setting forth in detail the manner and form in which Defendant has complied with the injunction;

D. Ordering such other and further relief as the Court deems just and appropriate.

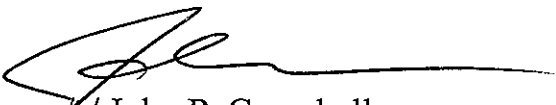
CERTIFICATION PURSUANT TO LOCAL CIVIL RULE 11.2

Plaintiff, by and through its attorneys, hereby certifies, on information and belief, that the matter in controversy is not the subject of any other action pending in any court, or of any pending arbitration or administrative proceeding.

JURY DEMAND

Plaintiff demands trial by jury on all issues so triable.

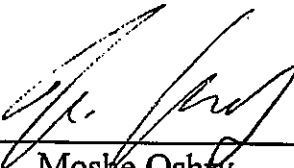
Dated: June 25, 2015


By: /s/ John P. Campbell
SCHENCK, PRICE, SMITH & KING, LLP
Michael J. Marotte (MM-5795)
John P. Campbell (JC-8746)
220 Park Avenue
Florham Park, NJ 07932
Attorneys for Plaintiff
Natural and Tasty, LLC

VERIFICATION

I, Moshe Oshry, am the Chief Operating Officer of Natural and Tasty, LLC, the plaintiff herein. The allegations contained within the Verified Complaint are true to the best of my knowledge, information and belief.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.



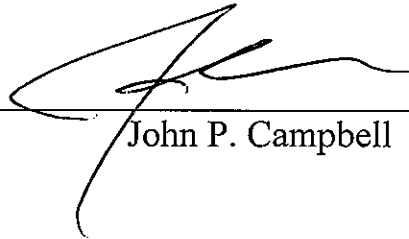
Moshe Oshry

Dated: June 25, 2015

JPC/1483314

CERTIFICATION

I hereby certify that MOSHE OSHRY acknowledged the genuineness of his signature on the pleading filed herewith, and an original signed copy will be filed with the Court if requested by the Court or any party to this action.



John P. Campbell

Dated: June 25, 2015

Exhibit 1

United States of America
United States Patent and Trademark Office

goldbaums

Reg. No. 4,605,512

Registered Sep. 16, 2014

Int. Cl.: 30

TRADEMARK

PRINCIPAL REGISTER

NATURAL AND TASTY LLC (NEW JERSEY LIMITED LIABILITY COMPANY)
719 EASTERN PKWAY ST3
321 KINGSTON AVE
BROOKLYN, NY 11213

FOR: FOODS AND SNACKS, NAMELY, PASTA, ICE CREAM CONES, CRACKERS, QUINOA-BASED SNACK FOODS, SEASONING MIXES FOR SOUPS, IN CLASS 30 (U.S. CL. 46).

FIRST USE 4-20-2008; IN COMMERCE 4-20-2008.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SEC. 2(F).

SER. NO. 86-203,520, FILED 2-25-2014.

JORDAN BAKER, EXAMINING ATTORNEY



Michelle K. Lee

Deputy Director of the United States
Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

Requirements in the First Ten Years*

What and When to File:

First Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

Second Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between the 9th and 10th years after the registration date.*
See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*

What and When to File:

You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

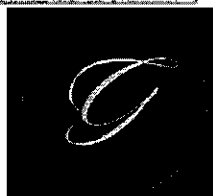
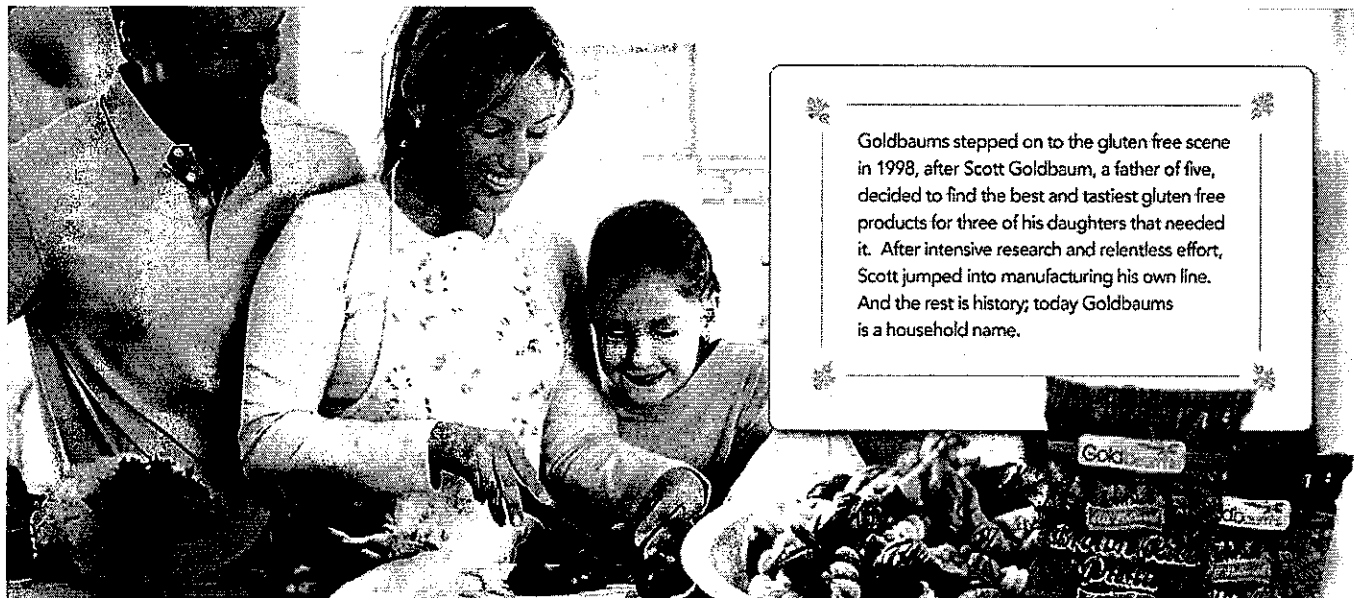
The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or reminder of these filing requirements.

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

Exhibit 2

Goldbaum's

[HOME](#) [OUR PRODUCTS](#) [ABOUT US](#) [CONTACT US](#)

[STORE LOCATOR](#) [RECIPES](#) [TESTIMONIALS](#)


Goldbaums stepped on to the gluten free scene in 1998, after Scott Goldbaum, a father of five, decided to find the best and tastiest gluten free products for three of his daughters that needed it. After intensive research and relentless effort, Scott jumped into manufacturing his own line. And the rest is history; today Goldbaums is a household name.

GOLDBAUMS. THE NAME IN TASTY GLUTEN FREE FOOD

Crackers

Made with the nutrient and flavor-rich flour of ground chickpeas, these impressively flavorful flatbread crisps are gluten free, wheat free and GMO free.



Pasta & Noodle

We are proud to provide you with a low fat sugar, Gluten, wheat and GMO free pasta, enjoy these traditional pastas as your favorite dish! -Spaghetti -Fettuccine -Penne -Elbow -Shell -Spiral -Radiatore



Ice Cream Cones

Our cones are gluten free, GMO free, and vegan. They come in two varieties, vanilla wafer cups and chocolate sugar cones. Each cone is a mere 14 calories.


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 Site Design: SmartWeb

